

APPENDIX 10

Penn State Defendants' Documents in Support of
Motion for Summary Judgment/Statement of Facts

APPENDIX 10

County of Centre



COPY

CONSENSUAL INTERCEPTION APPLICATION
OFFICER'S MEMORANDUM

DA Approval No.: _____

Certification No.: A3713

Incident No.: 41-07-3219

Applying Officer: Ryan Rodgers

I am involved in the following investigation:

On 10/5/07 at approximately 0416 hours, Officer Matthew Cover responded to the intersection of Shortlidge Road and College Avenue to meet with victim Desiree M. Minder. Minder proceeded to tell Officer Cover that she had been raped by Austin Scott. Minder advised that the assault had taken place at Scott's apartment in his bedroom in Nittany Apartments. According to PSU Housing records, Scott is a resident of **REDACTED**

Minder was subsequently transported to the Mount Nittany Medical Center by Officer Cover and Officer Dustin Miller. While at the hospital, Minder provided the following details to SART nurse Janet Catie, while in the presence of Officer Cover.

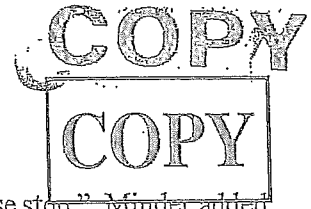
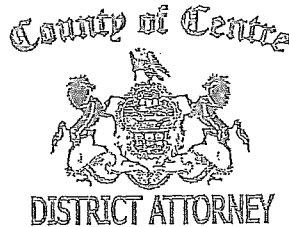
Minder stated on 10/5/07, she went to the Saloon in downtown State College. Minder reported while at the Saloon, she received a text message from Scott asking her what she was doing. Minder replied to Scott advising him that she was at the Saloon. Minder stated that Scott has been attempting to "hang out" with her for the past few days.

Minder stated shortly after receiving the text message from Scott, he met her at the Saloon. Minder reported that Scott was wearing jeans and a black t-shirt with some type of writing on it. Minder said they were only at the Saloon for a short time and left the Saloon at approximately 0200 hours. Minder advised that they walked directly to Scott's apartment in Nittany Apartments.

Minder stated while walking to Scott's apartment, Scott said, why don't you stay at my place tonight. Minder said that she told Scott she did not want to sleep at his place. Minder advised she asked Scott if he wanted to come to her apartment instead, which he said no. Minder added that Scott replied by saying, "Just crash at my place." Minder reported that she agreed to sleep at Scott's apartment but told him, "Ok but nothing is going to happen tonight."

Minder stated upon arriving at Scott's apartment, they went directly to his bedroom. Minder said that they both laid on Scott's bed and talked for approximately twenty minutes. Minder advised when she laid on Scott's bed and when she went to sleep she was wearing her jeans, underwear, and her shirt. Minder added that she was unsure if Scott was wearing any clothing. Minder reported that they were lying on top of the comforter and were not covered up with anything. Minder stated she fell directly asleep. Minder said that to this point, she and Scott had not kissed or touched in a sexual nature.

Minder stated that she was awoken by Scott being on top of her. Minder said when she was awoken, her



jeans had been removed. Minder advised that she responded by saying, "No, Please stop." Minder added that she attempted to move and turned away from Scott with her side facing him. Minder reported that Scott punched her in the kidney area causing her to fall onto her back on the bed. Minder stated that she started crying and said, "Stop, you're hurting me." Minder advised that Scott was on top of her the whole time that this had taken place.

Minder stated that she then went along with it because she was afraid that Scott was going to hurt her. Minder said that Scott then began to kiss her neck and mouth. Minder advised that Scott then grabbed her chest and pulled down her top, however, her top was still on. Minder added that Scott then forcefully took her underwear off of her. Minder said that Scott then inserted his fingers into her vagina. Minder advised Scott then inserted his penis into her vagina. Minder added that she was unsure if Scott was wearing a condom.

Minder stated that Scott had placed a towel underneath her at some point. Minder said after the intercourse, Scott removed the towel from beneath her and wiped his genital area off. Minder advised that she is unsure if Scott ejaculated. Minder added that Scott then rolled over and went to sleep.

Minder stated when Scott fell asleep, she attempted to sneak out of his room. Minder said as she was opening the door, Scott's cell phone rang. Minder advised Scott noticed that she was leaving and asked where she was going. Minder added that she told Scott she was going home. Minder reported that she then left Scott's apartment.

The Affiant is requesting that the application for a consensual interception of a telephone call between Minder and Scott be approved to assist in the gathering of potential evidence in the ongoing investigation of a Rape, Sexual Assault, and Indecent Assault.

PSU000218



CONSENSUAL INTERCEPTION APPLICATION

I request authorization to intercept communications between or among the following person(s):

NAME	DATE OF BIRTH	ROLE IN INVESTIGATION
Desiree M. Minder	REDACTED	Victim
Austin Scott	REDACTED	Suspect

If authorized, the interception would be accomplished by the use of the following devices in the following manner: SME-700 body recorders and AID transmitters and receivers, SME-DS2 digital recorder, SME-TP3CX cellular telephone recording interface, tape recorders and telephone interception units and video equipment. I anticipate the interception to occur at the following location, State College, Centre County, Pennsylvania. I expect the proposed interception(s) to occur on or about 05 October 2007 to 13 October 2007 on the following phone number: 814-441-6430, belonging to Austin Scott.

The proposed interception appears to be desirable because it will assist officers conducting the investigation in identifying all of the participants in the matter. It will also corroborate the statements of the suspect, officers, and co-defendants yet to be identified.

The following is a list of those person(s) whose communications will be intercepted and whom have criminal charges pending. This list includes specific charges if known.

NAME	CRIMINAL CHARGE
Austin Scott	Title 18 § 3121; Title 18 § 3124.1; Title 18 § 3126

The person(s) freely and voluntarily consenting to the proposed interception(s) is Desiree M. Minder.

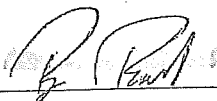
Based on the above and the attached Memorandum of Consent, I request that approval be given for the proposed interception pursuant to sections 5704 and related sections of the Pennsylvania Wiretapping and Electronic Surveillance Control Act and that the necessary equipment for the interception be issued to the following person(s) who will conduct his interception(s):

NAME	AGENCY	CERTIFICATION NO.
Ryan Rodgers	Penn State University Police	A3713

PSU000219



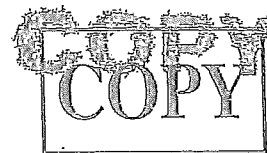
His/Her training and experience in the use of intercepting devices is as follows: Ryan Rodgers has been trained by the PA State Police and wiretapping "A" certified by the PA Office of Attorney General. Rodgers has previously conducted a consensual wiretap using the SME-DS2 digital recorder and SME-TP3CX telephone recording interface. Rodgers has assisted in non-consensual and consensual wiretaps.

Signature: 
Date: 10/05/07 Time: 0830

County of Centre



DISTRICT ATTORNEY



MEMORANDUM OF INTERCEPTION

Incident No.: 41-07-3219

I, Ryan Rodgers, Detective, Penn State University Police, A3713,
 (Name of Officer) (Title) (Department) (Certification No.)

conducted a duly authorized interception of communication on 05 October 2007
 between the hours of 0907 and 0913 within the boundaries of Centre County
 at the following location Pennsylvania State University Police Station, University Park, PA 16802

During the interception the following types of devices were utilized:

SME-DS2 digital recorder; SME-TP3CX telephone recording interface

The communication of the following persons were intercepted:

Consenting Individual(s): Desiree M. Minder

Subject(s) of the Investigation: Austin Scott

The interception produced 1 cassette(s)/reel(s) of tape/compact disk(s) bearing Incident
 Number : 41-07-3219 Tape Number: 1, My initials and the date of the above
 described interception.

Brief summary of the interception:

At 0907 hours, Minder called Austin Scott (telephone number 814-441-6436) via her cellular telephone. Scott answered his telephone. Minder and Scott spoke for twenty-five seconds. Minder advised that she was upset right now. It is believed that Scott then disconnected the telephone call.

At 0908 hours, Scott contacts Minder via telephone. Minder asked Scott about him videotaping women that he sleeps with. Minder advised Scott that she was upset about what happened and that she was mad. Scott asked if he was mad at him; Minder advised that she was. Minder told Scott "I told you no at the beginning of the night" and asked Scott why he thought she left. Scott answered that Minder told him that she could not sleep and advised that was why he was asking her why she was walking home that late. Minder advised that she left because she did not want to be there.

Scott stated that Minder did not have to "do it" if she did not want to. Minder told Scott that she told him that at the beginning of the night. Scott stated that she said that she just wanted him to respect her. Scott stated "damn your trying to flip it on me like." Scott again stated that it sounded like she was mad at him. Minder stated that she was mad at him and that she told him at the beginning of the night "and look what happened." Scott stated "I didn't force you on top of me." Scott again stated that he did not understand why she was mad at him.

PSU000221

4142
 Signature / Badge #

10-05-07
 Date

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MEMORANDUM OF INTERCEPTION (CONTINUED)

Minder then stated that she did not really know what happened and stated that she has bruises on her. Minder asked Scott what happened. Scott stated that she came over, they laid there ~~and they~~ and they "started doing whatever." Scott stated that Minder got on top of him.

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Minder again stated that she told him no at the beginning of the night. Minder then advised Scott that she was going to go, and Scott asked her to hold on. Scott stated that he thought everything was "cool" and stated that he did not force her on top of him. Scott stated that she had said that at the beginning of the night "but obviously things changed." Scott stated that he did not understand why she was so upset. Minder advised that she was upset and asked when she was on top of him, and advised that when she woke up he was on top of her. Scott asked what she was talking about and then stated that she just said that she did not know what had happened. Minder then ended the telephone call at 0913 hours, and the telephone call lasted for five minutes and twenty seconds.

PSU000222

Signature / Badge #

Date

PENNSTATE



University Police
The Pennsylvania State University
Eisenhower Parking Deck
University Park, PA 16802-2116

814 865-0466
Fax: 814 865-0466
COPY

20 October 2007

To: Austin Scott
Re: Notice of Interception

COMMONWEALTH OF PENNSYLVANIA

VS.

AUSTIN SCOTT

NOTICE OF INTERCEPTION:

You are hereby notified that communications between you and *Desiree Minder* on 05 October 2007 were intercepted pursuant to section 5704 (2) of the Pennsylvania Wiretapping and Electronic Surveillance Control Act and that the contents of which and the evidence derived there from, may be disclosed in trial, hearing, or other adversary proceeding in this matter.

The incident that was under investigation occurred on 05 October 2007 at **REDACTED** and involved the following criminal offenses: Rape, Sexual Assault, Assault, and other criminal charges.

This notice shall suffice to meet the requirements of Title 18 § 5720

Ryan Rodgers, Detective
Pennsylvania State University Police Department
28 Eisenhower Parking Deck
University Park, PA 16802
(814) 865-1864 – Business Tele.
(814) 865-0466 – Fax Tele.
RODGERS@police.psu.edu

cc: Attorney John Karoley; District Attorney Madeira

PSU000223